

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2022-015519

12/01/2022

HONORABLE SCOTT BLANEY

CLERK OF THE COURT

P. McKinley

Deputy

KARI LAKE FOR ARIZONA

TIMOTHY A LASOTA

v.

STEPHEN RICHER, et al.

JOSEPH J BRANCO

COURT ADMIN-CIVIL-ARB DESK  
DOCKET CV TX  
JUDGE BLANEY

**HEARING SET**

East Court Building – Courtroom 411

9:00 a.m. This is the time set for virtual Order to Show Cause Return Hearing on Plaintiff's Application for Order to Show Cause, filed November 28, 2022. Appearances are as follows:

- Plaintiff Kari Lake for Arizona is represented by Counsel Timothy A. La Sota.
- Defendants Stephen Richer, in his official capacity as the Maricopa County Recorder; Rey Valenzuela, in his official capacity as the Maricopa County Director of Elections for Election Services and Early Voting; Scott Jarrett, in his official capacity as the Maricopa County Director of Elections for Election Day and Emergency Voting; Bill Gates, Clint Hickman, Jack Sellers, Thomas Galvin, and Steve Gallardo in their official capacities as members of the Maricopa County Board of Supervisors; and Maricopa County are represented by Counsel Joseph Branco, Jack O'Connor and Thomas Liddy.

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All appearances are virtual and/or telephonic via Court Connect/Microsoft Teams.

A record of the proceedings is made digitally in lieu of a court reporter.

The Court poses questions to counsel as to case status.

Discussion is held as to the scope of the records request, the status of any production, records preservation, and the setting of an Order to Show Cause hearing.

Defendants present argument on the issues of ripeness, mootness, and expediency.

Defendants advise the Court they intend to file a Motion to Dismiss, and discussion is held.

**THE COURT FINDS** good cause to expedite these proceedings. The Court notes that the present case is not an election challenge; it is a statutory special action to compel the prompt production of records from the election. The records requests that are the subject of this action arise from allegations of election irregularities. The Court offers no opinion on the underlying allegations of election irregularities - those issues are not before this Court. But the Court in its discretion finds the present dispute over the requested records to be an issue of statewide concern that justifies expedited briefing and resolution.

For the reasons discussed on the record,

**IT IS ORDERED** that no later than **5:00 p.m. on December 5, 2022** Defendants will file their Motion to Dismiss.

**IT IS FURTHER ORDERED** no later than **5:00 p.m. on December 6, 2022** Plaintiff will file a Response to Defendants' Motion to Dismiss.

**IT IS FURTHER ORDERED** setting an **in-person** hearing on Plaintiff's Application for Order to Show Cause on **December 7, 2022 at 1:30 p.m. (time allotted: 90 minutes)** before this Division:

**Honorable Scott Blaney  
East Court Building  
101 West Jefferson, Courtroom 411  
Phoenix, Arizona 85003-2202  
Telephone: (602) 372-1095**

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At the hearing, the Court will hear argument regarding whether the Court should grant the relief requested in Plaintiff's Application for Order to Show Cause, mainly, whether the Court should "requir[e] the Defendants to immediately produce or make available to Plaintiff all public records requested in the First Records Request and/or the Second Records Request." Application at pg. 3.

The Court hopes that the parties will resolve this dispute prior to the hearing, in which case the hearing will not be necessary.

The Court discusses Arizona law governing presumptions on records requests:

- "Arizona law defines 'public records' broadly and creates a presumption requiring disclosure of public documents." *Griffis v. Pinal County*, 215 Ariz. 1, 4 (2007).
- "[A] governmental entity ... bears the burden of overcoming the presumption of disclosure." *American Civil Liberties Union v. Arizona Department of Child Safety*, 240 Ariz. 142, 151 (App. 2016).
- "[I]t is well-established that the requestor's need, good faith, or purpose is entirely irrelevant to the disclosure of public records." *Phoenix New Times, LLC v. Arpaio*, 217 Ariz. 533, 544 (App. 2008).
- "[W]hen records are subject to disclosure the required response is the prompt and actual production of the documents." *Phoenix New Times, LLC v. Arpaio*, 217 Ariz. 533, 538 (App. 2008).
- In assessing promptness, the operative time is when the request was made, not when the special action was filed. *Phoenix New Times, LLC v. Arpaio*, 217 Ariz. 533, 539 (App. 2008).
- The government entity has the burden of establishing that its responses were prompt. *Phoenix New Times, LLC v. Arpaio*, 217 Ariz. 533, 538-39 (App. 2008).
- A government entity does not have to create records to respond to a records request. "Arizona's public records law does not require an agency to tally and compile previously untallied and uncompiled information or data to respond to a public

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records request. *American Civil Liberties Union v. Arizona Department of Child Safety*, 240 Ariz. 142, 148-49 (App. 2016).

9:22 a.m. Matter concludes.

**NOTE:** All Court proceedings are recorded digitally and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for a half-day and \$280 for a full day.